

Atty. Dkt. No. 072827-1905

**REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons which follow.

Claims 1, 3, and 5 are currently being amended.

Claims 21-24 are being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, are presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-24 are now pending in this application.

**Rejections under 35 U.S.C. § 103**

The Examiner rejected claims 1-6, 19, and 20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Jones et al. (*J. Med. Chem.*, 1971, 14:161-164). The Examiner asserted that Jones "teaches that applicant's elected compound exhibits antidepressant activity via its ability to antagonize reserpine-induced hypothermia in mice ... and by inhibition of serotonin uptake." The examiner specifically cited compound no. 28 in Table I. Applicant respectfully traverses these rejections as they may be applied in connection with the present claims.

Preliminarily, Applicant points out that the compounds in Table I, including compound 28, all contain a propenyl group instead of the propyl group required in the present claims. Therefore, none of the compounds in Table I in Jones, including compound 28, corresponds to the species elected in the present application. In addition, none of the compounds in Table III corresponds to present claim 5 or any of the claims that depend from that claim.

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Further, claims 1 and 3 include the limitation of "selecting a compound having a NMDA  $IC_{50}$  of about 50 nM to about 1  $\mu$ M as measured in the NMDA assay and a serotonin reuptake  $IC_{50}$  of less than or equal to about 100 nm as measured in the serotonin reuptake inhibition assay". Such selection of a compound that has the dual activity of NMDA receptor inhibition and inhibition of serotonin reuptake (and with a moderate NMDA activity) is not suggested by Jones. To the contrary, Jones is typical of other references relating to treatment of depression by focusing on only a single activity, i.e., relating to serotonin, and not recognizing that dual activity as specified in the present claims is advantageous. Thus, at most Jones suggest selecting a compound based on serotonin reuptake inhibition, but ignores the NMDA activity. Therefore, Jones does not suggest performing all limitations of claims 1 and 3.

Because Jones does not suggest a compound of as specified in claim 5 or its dependent claims, and also does not suggest specifically selecting a compound have the dual activity described in claims 1 and 3, Jones does not suggest the present claimed invention.

Therefore, Applicant respectfully submits that the present claims are properly patentable over Jones et al., and requests that the Examiner reconsider and withdraw the rejections.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit

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Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date 14 July 2003By Wesley B. Ames

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